

1 AN ACT relating to the protection of children.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) A parent or legal guardian employing an individual to care for his or her minor
6 child may request the results of a background check of the child abuse and
7 neglect records maintained by the cabinet from the individual by submitting the
8 same form and paying the same fee that would be submitted by an entity required
9 by law to request such a background check on an employee or volunteer for the
10 purpose of determining whether there has been a substantiated finding of child
11 abuse or neglect for the child-care provider. The form shall contain the signature
12 of the individual consenting to the background check.

13 (2) The cabinet shall notify the individual on whom the background check was
14 completed of the results.

15 (a) If the results show no substantiated findings of child abuse or neglect on
16 the registry for the individual, the cabinet shall send the individual a letter
17 stating that they have no findings of substantiated abuse or neglect.

18 (b) If the results show substantiated findings of child abuse or neglect on the
19 registry for the individual, the cabinet shall send the individual the results
20 of the search.

21 (3) The cabinet shall make the form for requesting a background check of the child
22 abuse and neglect records maintained by the cabinet available on its Web site
23 along with information on how to locate a child-care provider certified or
24 licensed by the cabinet and how to request a criminal background check for a
25 child-care provider.

26 (4) The cabinet shall promulgate administrative regulations to implement subsection
27 (1) of this section.

➔Section 2. KRS 160.151 is amended to read as follows:

(1) (a) **I.** A private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with ~~the provisions of~~ KRS 156.160(3) may require a national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** on all new certified hires in the school and student teachers assigned to the school and may require a new national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** on each certified teacher once every five (5) years of employment.

2. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check **and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services** for previous employment may be excluded from the initial national or state criminal background checks.

(b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check

1 shall be conducted by the Department of Kentucky State Police or the
2 Administrative Office of the Courts.

3 (c) All fingerprints requested under this section shall be on an applicant
4 fingerprint card provided by the Department of Kentucky State Police. The
5 fingerprint cards shall be forwarded to the Federal Bureau of Investigation by
6 the Department of Kentucky State Police after a state criminal background
7 check has been conducted. Any fee charged by the Department of Kentucky
8 State Police, the Administrative Office of the Courts, or the Federal Bureau of
9 Investigation shall be an amount no greater than the actual cost of processing
10 the request and conducting the search.

11 (2) If a school requires a criminal background check or requires a letter from the
12 Cabinet for Health and Family Services stating that the person has no findings of
13 substantiated child abuse or neglect found through a background check of child
14 abuse and neglect records maintained by the Cabinet for Health and Family
15 Services for a new hire, the school shall conspicuously include the following
16 disclosure statement on each application or renewal form provided by the employer
17 to an applicant for a certified position: "STATE LAW AUTHORIZES THIS
18 SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK
19 AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY
20 SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO
21 FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND
22 THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT
23 RECORDS AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF
24 POSITION."

25 (a) For purposes of this subsection, "contractor" means an adult who is permitted
26 access to school grounds pursuant to a current or prospective contractual
27 agreement with the school, school board, school district, or school-affiliated

entity, at times when students are present. The term "contractor" includes an employee of a contractor.

(b) 1. The school or school board may require a contractor who works on school premises during school hours and may require a contractor who does not have contact with students, a volunteer, or a visitor to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts and require a letter from the Cabinet for Health and Family Services stating that the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

2. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police if required. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. If a background check of child abuse and neglect records is requested, the person seeking employment shall provide to the hiring superintendent a letter from the Cabinet for Health and Family Services stating the person has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

3. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

- 1 (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter
2 may choose not to employ any person who is a violent offender as defined by
3 KRS 17.165(2), has been convicted of a sex crime which is classified as a
4 felony as defined by KRS 17.165(1), or has committed a violent crime as
5 defined in KRS 17.165(3) or persons with a substantiated finding of child
6 abuse or neglect in records maintained by the Cabinet for Health and
7 Family Services. A nonpublic school may employ, at its discretion, persons
8 convicted of sex crimes classified as a misdemeanor.
- 9 (b) If a school term has begun and a certified position remains unfilled or if a
10 vacancy occurs during a school term, a nonpublic school implementing~~the~~
11 ~~provisions of~~ this chapter may employ an individual who will have
12 supervisory or disciplinary authority over minors on probationary status
13 pending receipt of a criminal history background check or the receipt of a
14 letter, provided by the individual, from the Cabinet for Health and Family
15 Services stating that the person has no findings of substantiated child abuse
16 or neglect found through a background check of child abuse and neglect
17 records maintained by the Cabinet for Health and Family Services.
- 18 (c) Employment at a nonpublic school implementing~~the provisions of~~ this
19 chapter may be contingent on the receipt of a criminal history background
20 check documenting a record as a violent offender, of a sex crime, or of a
21 violent crime as defined in KRS 17.165 or the receipt of a letter, provided by
22 the individual, from the Cabinet for Health and Family Services stating that
23 the person has no findings of substantiated child abuse or neglect found
24 through a background check of child abuse and neglect records maintained
25 by the Cabinet for Health and Family Services.
- 26 (d) Nonpublic schools implementing~~the provisions of~~ this chapter may
27 terminate probationary employment under this section upon receipt of a

1 criminal history background check documenting a record as a violent
2 offender, of a sex crime, or of a violent crime as defined in KRS 17.165 or the
3 receipt of a letter, provided by the individual, from the Cabinet for Health
4 and Family Services stating that the person has no findings of substantiated
5 child abuse or neglect found through a background check of child abuse
6 and neglect records maintained by the Cabinet for Health and Family
7 Services.

8 (4) The form for requesting a letter, required by this section, stating an employee is
9 clear to hire based on a background check of child abuse and neglect records
10 maintained by the Cabinet for Health and Family Services shall be made
11 available on the Cabinet for Health and Family Services Web site.

12 ➔Section 3. KRS 160.380 is amended to read as follows:

13 (1) As used in this section:

14 (a) "Alternative education program" means a program that exists to meet the
15 needs of students that cannot be addressed in a traditional classroom setting
16 but through the assignment of students to alternative classrooms, centers, or
17 campuses that are designed to remediate academic performance, improve
18 behavior, or provide an enhanced learning experience. Alternative education
19 programs do not include career or technical centers or departments;

20 (b) "Contractor" means an adult who is permitted access to school grounds
21 pursuant to a current or prospective contractual agreement with the school,
22 school board, school district, or school-affiliated entity, at times when
23 students are present. The term "contractor" includes an employee of a
24 contractor;

25 (c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter,
26 aunt, uncle, son-in-law, and daughter-in-law; and

27 (d) "Vacancy" means any certified position opening created by the resignation,

1 dismissal, nonrenewal of contract, transfer, or death of a certified staff
2 member of a local school district, or a new position created in a local school
3 district for which certification is required. However, if an employer-employee
4 bargained contract contains procedures for filling certified position openings
5 created by the resignation, dismissal, nonrenewal of contract, transfer, or death
6 of a certified staff member, or creation of a new position for which
7 certification is required, a vacancy shall not exist, unless certified positions
8 remain open after compliance with those procedures.

9 (2) Except as provided in KRS 160.346:

10 (a) All appointments, promotions, and transfers of principals, supervisors,
11 teachers, and other public school employees shall be made only by the
12 superintendent of schools, who shall notify the board of the action taken. All
13 employees of the local district shall have the qualifications prescribed by law
14 and by the administrative regulations of the Kentucky Board of Education and
15 of the employing board. Supervisors, principals, teachers, and other
16 employees may be appointed by the superintendent for any school year at any
17 time after February 1 preceding the beginning of the school year. No
18 superintendent of schools shall appoint or transfer himself or herself to
19 another position within the school district;

20 (b) When a vacancy occurs in a local school district, the superintendent shall
21 notify the chief state school officer thirty (30) days before the position shall be
22 filled. The chief state school officer shall keep a registry of local district
23 vacancies which shall be made available to the public. The local school
24 district shall post position openings in the local board office for public
25 viewing;

26 (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent
27 disruption of necessary instructional or support services of the school district,

1 the superintendent may seek a waiver from the chief state school officer. If the
2 waiver is approved, the appointment shall not be made until the person
3 recommended for the position has been approved by the chief state school
4 officer. The chief state school officer shall respond to a district's request for
5 waiver or for approval of an appointment within two (2) working days;

6 (d) When a vacancy occurs in a local district, the superintendent shall conduct a
7 search to locate minority teachers to be considered for the position. The
8 superintendent shall, pursuant to administrative regulations of the Kentucky
9 Board of Education, report annually the district's recruitment process and the
10 activities used to increase the percentage of minority teachers in the district;

11 (e) No relative of a superintendent of schools shall be an employee of the school
12 district. However, this shall not apply to a relative who is a classified or
13 certified employee of the school district for at least thirty-six (36) months
14 prior to the superintendent assuming office, or prior to marrying a relative of
15 the superintendent, and who is qualified for the position the employee holds.
16 A superintendent's spouse who has previously been employed in a school
17 system may be an employee of the school district. A superintendent's spouse
18 who is employed under this provision shall not hold a position in which the
19 spouse supervises certified or classified employees. A superintendent's spouse
20 may supervise teacher aides and student teachers. However, the
21 superintendent shall not promote a relative who continues employment under
22 an exception of this subsection;

23 (f) No superintendent shall employ a relative of a school board member of the
24 district, unless on July 13, 1990, the board member's relative is an employee
25 of the district, the board member is holding office, and the relative was not
26 initially hired by the district during the tenure of the board member. A relative
27 employed in 1989-90 and initially hired during the tenure of a board member

1 serving on July 13, 1990, may continue to be employed during the remainder
2 of the board member's term. However, the superintendent shall not promote
3 any relative of a school board member who continues employment under the
4 exception of this subsection; and

5 (g) 1. No principal's relative shall be employed in the principal's school, except
6 a relative who is not the principal's spouse and who was employed in the
7 principal's school during the 1989-90 school year.

8 2. No spouse of a principal shall be employed in the principal's school,
9 except:

10 a. A principal's spouse who was employed in the principal's school
11 during the 1989-90 school year for whom there is no position for
12 which the spouse is certified to fill in another school operated in
13 the district; or

14 b. A principal's spouse who was employed in the 1989-90 school year
15 and is in a school district containing no more than one (1)
16 elementary school, one (1) middle school, and one (1) high school.

17 3. A principal's spouse who is employed in the principal's school shall be
18 evaluated by a school administrator other than the principal.

19 4. The provisions of KRS 161.760 shall not apply to any transfer made in
20 order to comply with the provisions of this paragraph.

21 (3) No superintendent shall assign a certified or classified staff person to an alternative
22 education program as part of any disciplinary action taken pursuant to KRS 161.011
23 or 161.790 as part of a corrective action plan established pursuant to the local
24 district evaluation plan.

25 (4) No superintendent shall employ in any position in the district any person who is a
26 violent offender or has been convicted of a sex crime as defined by KRS 17.165
27 which is classified as a felony or persons with a substantiated finding of child

1 abuse or neglect in records maintained by the Cabinet for Health and Family
2 Services. The superintendent may employ, at his discretion, except at a Kentucky
3 Educational Collaborative for State Agency Children program, persons convicted
4 of sex crimes classified as a misdemeanor.

5 (5) (a) A superintendent shall require a national and state criminal background check
6 and require a letter, provided by the individual, from the Cabinet for Health
7 and Family Services indicating the individual is clear to hire based on no
8 findings of substantiated child abuse or neglect found through a
9 background check of child abuse and neglect records maintained by the
10 Cabinet for Health and Family Services on all new certified hires in the
11 school district and student teachers assigned within the district. Excluded are
12 certified individuals who were employed in another certified position in a
13 Kentucky school district within six (6) months of the date of hire and who had
14 previously submitted to a national and state criminal background check and
15 who have a letter, provided by the individual, from the Cabinet for Health
16 and Family Services stating the employee is clear to hire based on no
17 findings of substantiated child abuse or neglect found through a
18 background check of child abuse and neglect records maintained by the
19 Cabinet for Health and Family Services for the previous employment.

20 (b) The superintendent shall require that each new certified hire and student
21 teacher, as set forth in paragraph (a) of this subsection, submit to a national
22 and state criminal history background check by the Department of Kentucky
23 State Police and the Federal Bureau of Investigation and have a letter,
24 provided by the individual, from the Cabinet for Health and Family Services
25 stating the employee is clear to hire based on no findings of substantiated
26 child abuse or neglect found through a background check of child abuse
27 and neglect records maintained by the Cabinet for Health and Family

1 Services.

2 (c) All fingerprints requested under this section shall be on an applicant
3 fingerprint card provided by the Department of Kentucky State Police. The
4 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
5 from the Department of Kentucky State Police after a state criminal
6 background check is conducted. The results of the state and federal criminal
7 background check shall be sent to the hiring superintendent. Any fee charged
8 by the Department of Kentucky State Police, ~~and~~ the Federal Bureau of
9 Investigation, and the Cabinet for Health and Family Services shall be an
10 amount no greater than the actual cost of processing the request and
11 conducting the search.

12 (d) The Education Professional Standards Board may promulgate administrative
13 regulations to impose additional qualifications to meet the requirements of
14 Public Law 92-544.

15 (6) (a) A superintendent shall require a *national and* state criminal background
16 check *and require a letter, provided by the individual, from the Cabinet for*
17 *Health and Family Services stating the employee is clear to hire based on*
18 *no findings of substantiated child abuse or neglect found through a*
19 *background check of child abuse and neglect records maintained by the*
20 *Cabinet for Health and Family Services* on all classified initial hires.

21 (b) The superintendent shall require that each classified initial hire submit to a
22 *national and* state criminal history background check by the Department of
23 Kentucky State Police *and require a letter, provided by the individual, from*
24 *the Cabinet for Health and Family Services stating the employee is clear to*
25 *hire based on no findings of substantiated child abuse or neglect found*
26 *through a background check of child abuse and neglect records maintained*
27 *by the Cabinet for Health and Family Services.* ~~If an applicant has been a~~

1 ~~resident of Kentucky twelve (12) months or less, the superintendent may~~
2 ~~require a national criminal history background check as a condition of~~
3 ~~employment.]~~

4 (c) Any request for **any criminal background** records under this section shall be
5 on an applicant fingerprint card provided by the Department of Kentucky
6 State Police. The results of the state criminal background check and the results
7 of the national criminal history background check, if requested under~~the~~
8 ~~provisions of~~ paragraph (b) of this subsection, shall be sent to the hiring
9 superintendent. Any fee charged by the Department of Kentucky State Police
10 **and the Cabinet for Health and Family Services** shall be an amount no
11 greater than the actual cost of processing the request and conducting the
12 search.

13 (7) **(a)** The superintendent ~~shall~~~~may~~ require a contractor **who works on school**
14 **premises during school hours and may require a contractor who does not**
15 **have contact with students, a** volunteer, or **a** visitor to submit to a national
16 and state criminal history background check by the Department of Kentucky
17 State Police and the Federal Bureau of Investigation **and have a letter,**
18 **provided by the individual, from the Cabinet for Health and Family Services**
19 **stating the employee is clear to hire based on no findings of substantiated**
20 **child abuse or neglect found through a background check of child abuse**
21 **and neglect records maintained by the Cabinet for Health and Family**
22 **Services.**

23 **(b)** Any request for records under this section shall be on an applicant fingerprint
24 card provided by the Department of Kentucky State Police. **If requested,** the
25 results of the state criminal background check and the results of the national
26 criminal history background check~~, if requested,~~ **and a letter, provided by**
27 **the individual, from the Cabinet for Health and Family Services stating the**

1 employee is clear to hire based on no findings of substantiated child abuse
2 or neglect found through the results of a background check of child abuse
3 and neglect records maintained by the Cabinet for Health and Family
4 Services shall be sent to the hiring superintendent. Any fee charged by the
5 Department of Kentucky State Police and the Cabinet for Health and Family
6 Services shall be an amount no greater than the actual cost of processing the
7 request and conducting the search.

8 (8) (a) If a school term has begun and a certified or classified position remains
9 unfilled or if a vacancy occurs during a school term, a superintendent may
10 employ an individual, who will have supervisory or disciplinary authority over
11 minors, on probationary status pending receipt of the criminal history
12 background check and have a letter, provided by the individual, from the
13 Cabinet for Health and Family Services stating the employee is clear to hire
14 based on no findings of substantiated child abuse or neglect found through
15 a background check of child abuse and neglect records maintained by the
16 Cabinet for Health and Family Services. Application for the criminal record
17 and a request for a letter, provided by the individual, from the Cabinet for
18 Health and Family Services stating the employee is clear to hire based on
19 no findings of substantiated child abuse or neglect found through a
20 background check of child abuse and neglect records maintained by the
21 Cabinet for Health and Family Services of a probationary employee shall be
22 made no later than the date probationary employment begins.

23 (b) Employment shall be contingent on the receipt of the criminal history
24 background check documenting that the probationary employee has no record
25 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt
26 of a letter, provided by the individual, from the Cabinet for Health and
27 Family Services stating the employee is clear to hire based on no findings of

1 substantiated child abuse or neglect found through a background check of
2 child abuse and neglect records maintained by the Cabinet for Health and
3 Family Services.

4 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
5 probationary employment under this section shall terminate on receipt by the
6 school district of a criminal history background check documenting a record
7 of a sex crime or as a violent offender as defined in KRS 17.165 and no
8 further procedures shall be required.

9 (d) The provisions of KRS 161.790 shall apply to terminate employment of a
10 certified employee on the basis of a criminal record other than a record of a
11 sex crime or as a violent offender as defined in KRS 17.165.

12 (9) (a) Each application or renewal form, provided by the employer to an applicant
13 for a classified position, shall conspicuously state the following: "FOR THIS
14 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE
15 CRIMINAL HISTORY BACKGROUND CHECK AND HAVE A LETTER,
16 PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR
17 HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS
18 CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED
19 CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND
20 CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED
21 BY THE CABINET FOR HEALTH AND FAMILY SERVICES AS A
22 CONDITION OF EMPLOYMENT. UNDER CERTAIN
23 CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY
24 BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF
25 EMPLOYMENT."

26 (b) Each application or renewal form, provided by the employer to an applicant
27 for a certified position, shall conspicuously state the following: "FOR THIS

1 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND
2 STATE CRIMINAL HISTORY BACKGROUND CHECK AND HAVE A
3 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET
4 FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE
5 IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED
6 CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND
7 CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED
8 BY THE CABINET FOR HEALTH AND FAMILY SERVICES AS A
9 CONDITION OF EMPLOYMENT."

10 (c) Each application form for a district position shall require the applicant to:

- 11 1. Identify the states in which he or she has maintained residency,
12 including the dates of residency; and
- 13 2. Provide picture identification.

14 (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a
15 nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

16 (11) (a) A school-based decision-making council parent member, as defined under
17 KRS 160.345, shall submit to a state and national fingerprint-supported
18 criminal history background check by the Department of Kentucky State
19 Police and the Federal Bureau of Investigation and have a letter, provided by
20 the individual, from the Cabinet for Health and Family Services stating the
21 employee is clear to hire based on no findings of substantiated child abuse
22 or neglect found through a background check of child abuse and neglect
23 records maintained by the Cabinet for Health and Family Services.

24 (b) The results of the state criminal history background check and the results of
25 the national criminal history background check, if requested, and a letter,
26 provided by the individual, from the Cabinet for Health and Family Services
27 stating the employee is clear to hire based on no findings of substantiated

1 child abuse or neglect found through the results of a background check of
2 child abuse and neglect records maintained by the Cabinet for Health and
3 Family Services shall be sent to the district superintendent. Any fee charged
4 by the Department of Kentucky State Police and the Cabinet for Health and
5 Family Services shall be an amount no greater than the actual cost of
6 processing the request and conducting the search. A parent member may serve
7 prior to the receipt of the criminal history background check report but shall
8 be removed from the council on receipt by the school district of a report
9 documenting a record of a sex crime or criminal offense against a victim who
10 is a minor as defined in KRS 17.500 or as a violent offender as defined in
11 KRS 17.165, and no further procedures shall be required.

12 (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
13 when an employee of the school district is charged with any offense which is
14 classified as a felony, the superintendent may transfer the employee to a second
15 position until such time as the employee is found not guilty, the charges are
16 dismissed, the employee is terminated, or the superintendent determines that further
17 personnel action is not required. The employee shall continue to be paid at the same
18 rate of pay he or she received prior to the transfer. If an employee is charged with an
19 offense outside of the Commonwealth, this provision may also be applied if the
20 charge would have been treated as a felony if committed within the Commonwealth.
21 Transfers shall be made to prevent disruption of the educational process and district
22 operations and in the interest of students and staff and shall not be construed as
23 evidence of misconduct.

24 (13) Notwithstanding any law to the contrary, each certified and classified employee
25 of the school district shall notify the superintendent if he or she has been found
26 by the Cabinet for Health and Family Services to have abused or neglected a
27 child, and if he or she has waived the right to appeal a substantiated finding of

1 child abuse or neglect or if the substantiated incident was upheld upon appeal.
2 Any failure to report this finding shall result in the certified or classified
3 employee being subject to dismissal or termination.

4 (14) The form for requesting a letter, required by this section, stating an employee is
5 clear to hire based on a background check of child abuse and neglect records
6 maintained by the Cabinet for Health and Family Services shall be made
7 available on the Cabinet for Health and Family Services Web site.

8 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO
9 READ AS FOLLOWS:

10 As used in Sections 4 to 7 of this Act:

11 (1) "Criminal offense against a minor" means a conviction or a plea of guilty to any
12 of the following offenses if the victim is under the age of eighteen (18) at the time
13 of the commission of the offense:

14 (a) Kidnapping, as in KRS 509.040, except by a parent;

15 (b) Unlawful imprisonment, as in KRS 509.020, except by a parent;

16 (c) Sexual misconduct as in KRS 510.140;

17 (d) Use of a minor in a sexual performance, as in KRS 531.310;

18 (e) Promoting a sexual performance of a minor, as in KRS 531.320;

19 (f) Possession or viewing matter portraying a sexual performance by a minor,
20 as in KRS 531.335;

21 (g) Distribution of matter portraying a sexual performance by a minor, as in
22 KRS 531.340;

23 (h) Promoting the sale of material portraying a sexual performance by a minor,
24 as in KRS 531.350;

25 (i) Advertising material portraying a sexual performance by a minor, as in
26 KRS 531.360;

27 (j) Using minors to distribute material portraying a sexual performance by a

- 1 minor, as in KRS 531.370;
- 2 (k) Human trafficking involving commercial sexual activity, as in KRS
- 3 529.100;
- 4 (l) Promoting prostitution, as in KRS 529.040, when the defendant advances or
- 5 profits from the prostitution of a person under the age of eighteen (18);
- 6 (m) Unlawful transaction with a minor in the first degree, as in KRS
- 7 530.064(1)(a);
- 8 (n) Any attempt to commit any of the offenses described in paragraphs (a) to
- 9 (m) of this subsection; or
- 10 (o) Solicitation to commit any of the offenses described in paragraphs (a) to (m)
- 11 of this subsection;
- 12 (2) "Sex crime" means a conviction or a plea of guilty to any of the following
- 13 offenses:
- 14 (a) Rape in the first degree as in KRS 510.040;
- 15 (b) Rape in the second degree as in KRS 510.050;
- 16 (c) Rape in the third degree as in KRS 510.060;
- 17 (d) Sodomy in the first degree as in KRS 510.070;
- 18 (e) Sodomy in the second degree as in KRS 510.080;
- 19 (f) Sodomy in the third degree as in KRS 510.090;
- 20 (g) Sodomy in the fourth degree as in KRS 510.100;
- 21 (h) Sexual abuse in the first degree as in KRS 510.110;
- 22 (i) Sexual abuse in the second degree as in KRS 510.120;
- 23 (j) Sexual abuse in the third degree as in KRS 510.130;
- 24 (k) Indecent exposure in the first degree as in KRS 510.148;
- 25 (l) Indecent exposure in the second degree as in KRS 510.150;
- 26 (m) Unlawful use of electronic means originating or received within the
- 27 Commonwealth to induce a minor to engage in sexual or other prohibited

1 activities as in KRS 510.155; or

2 (n) Incest as in KRS 530.020;

3 (3) "Violent offender" means any person who has been convicted of or who has
4 entered a plea of guilty to the commission of a capital offense, Class A felony,
5 Class B felony involving the death of the victim or serious physical injury to the
6 victim, or rape in the first degree, or sodomy in the first degree; and

7 (4) "Youth camp" or "camp" means:

8 (a) Any camp required pursuant to KRS 211.180 to obtain a permit to operate;
9 and

10 (b) Any program offered, whether free or for a fee, for recreational,
11 educational, sports training, or vacation purposes to children under
12 eighteen (18) years of age that a child attends outside the presence of his or
13 her parent or legal guardian.

14 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO
15 READ AS FOLLOWS:

16 Sections 4 to 7 of this Act shall not apply to:

17 (1) Public school districts or programs sponsored by the school district;

18 (2) Private schools;

19 (3) Child-care centers, child-caring and child-placing agencies; family child-care
20 homes; and foster care, relative caregiver services or adoptive homes otherwise
21 governed by KRS Chapter 199; or

22 (4) Babysitting or child-care arrangements made by a child's parent or guardian and
23 occurring within a private home.

24 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO
25 READ AS FOLLOWS:

26 (1) A youth camp that receives public funds shall not employ, contract, or utilize as a
27 volunteer, in any position, any person who has been convicted of or who has

1 entered a plea of guilty to a criminal offense against a minor or a sex crime, who
2 is a violent offender, or who has been found by the Cabinet for Health and
3 Family Services or a court to have abused or neglected a child.

4 (2) Prior to employing, contracting with, or allowing volunteer work, each youth
5 camp that receives public funds shall obtain from the Justice and Public Safety
6 Cabinet a national and state criminal background check of the applicant,
7 contractor, or volunteer prior to the individual's presence at the camp or
8 involvement in any program of the camp.

9 (3) Prior to employing, contracting with, or allowing volunteer work, each youth
10 camp that receives public funds shall require applicants to obtain a letter from
11 the Cabinet for Health and Family Services stating the individual is clear to hire
12 based on no findings of substantiated child abuse or neglect found through a
13 background check of child abuse and neglect records maintained by the Cabinet
14 for Health and Family Services of the applicant, contractor, or volunteer prior to
15 the individual's presence at the camp or involvement in any program of the camp.

16 (4) Each application form provided by a youth camp that receives public funds to an
17 applicant or volunteer shall in a prominent place and legible font conspicuously
18 state the following: "STATE LAW REQUIRES A NATIONAL AND STATE
19 CRIMINAL BACKGROUND CHECK AND A LETTER FROM THE CABINET
20 FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS
21 CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD
22 ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF
23 CHILD ABUSE AND NEGLECT RECORDS AS A CONDITION OF
24 EMPLOYMENT OR INVOLVEMENT IN THIS PROGRAM."

25 (5) Any request for records under this section shall be on a form approved by the
26 Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by
27 the applicant in an amount no greater than the actual cost of processing the

1 request.

2 (6) This section shall apply to all applicants and volunteers in a position which
3 involves supervisory or disciplinary power over a minor.

4 (7) This section shall not be construed to prohibit an exempted organization from
5 requiring its employees, contractors, or volunteers to submit to a background
6 check. Youth camps that do not receive public funds may require its employees,
7 contractor, or volunteers to submit to a criminal background check and to have a
8 letter, provided by the individual, from the Cabinet for Health and Family
9 Services stating the individual has no findings of substantiated child abuse or
10 neglect found through a background check of child abuse and neglect records
11 maintained by the Cabinet for Health and Family Services.

12 (8) This section shall not be construed to require a youth camp that receives public
13 funds to employ, contract with, or allow volunteering by, an individual solely on
14 the basis of an acceptable criminal background check.

15 (9) This section shall not limit the ability of a youth camp that receives public funds
16 to establish a more stringent background check process for its employees,
17 contractors, or volunteers regarding other criminal offenses which, in the
18 discretion of the youth camp that receives public funds, would disqualify the
19 individual from involvement with the youth camp.

20 (10) The form for requesting a letter, required by this section, stating an employee is
21 clear to hire based on a background check of child abuse and neglect records
22 maintained by the Cabinet for Health and Family Services shall be made
23 available on the Cabinet for Health and Family Services Web site.

24 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO
25 READ AS FOLLOWS:

26 (1) Failure to comply with Section 6 of this Act will result in immediate suspension
27 of the entity's permit until compliance is obtained.

1 (2) If any employee, contractor, or volunteer is discovered to be a violent offender or
2 has been convicted of a sex crime or a criminal offense against a minor, or has
3 been found by the Cabinet for Health and Family Services to have abused or
4 neglected a child, and if he or she has waived the right to appeal a substantiated
5 finding of child abuse or neglect or if the substantiated incident was upheld upon
6 appeal, he or she shall be immediately terminated from participation with the
7 program and removed from the property.

8 (3) Any person who owns or operates a youth camp that receives public funds and
9 who knowingly allows an individual to serve or continue to serve as an employee,
10 contractor, or volunteer despite a conviction or offense specified in this section
11 shall be guilty of a Class A misdemeanor for the first offense and a Class D
12 felony for each subsequent offense.

13 ➔Section 8. Sections 2 through 7 of this Act shall take effect July 1, 2018.